

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12802 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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YUSUFBHAI I CHHIPA

Versus

GUJARAT WATER RESOURCES DEVELOPMENT CORPORATION

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Appearance:

MR MB GANDHI for Petitioner

MR HS MUNSHAW for Respondent No.3

None present for Respondent No.1, 2, 4, 5

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/11/97

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. On 19th September 1997, the State of Gujarat, through Secretary, Panchayat Department, Gandhinagar, and the Director of Pension & Accounts, Ahmedabad, were ordered to be impleaded as parties to this petition. Both these

aforesaid parties were served with notices of 17th November 1997, but none is present on their behalf.

#. The petitioner was initially appointed in the services of respondent No.3, District Panchayat, Ahmedabad, in the year 1965. In the year 1978, the petitioner was transferred to the office of respondent No.1, Gujarat Water Resources Development Corporation. While transferring the petitioner to the respondent No.1, an office order has been made by District Development Officer sanctioning the pension of the petitioner on the basis of his period of service which he rendered with the District Panchayat. The petitioner retired from services but pension has not been paid to him. Hence this Special Civil Application before this Court.

#. Manifold grievances have been made in this Special Civil Application, but the learned counsel for the petitioner states that except the grievances regarding pension and giving of the benefit of selection scale of nine years' service, all other grievances have been redressed.

#. The petitioner was admittedly working in the District Panchayat and his services were pensionary. He has been absorbed in the Corporation and on the basis of period of his service as an employee of the District Panchayat, his pension has also been fixed. So on his retirement he was entitled for pension but it is really shocking that neither the District Panchayat nor the State Government have cared to see that the petitioner gets pension after his retirement. The District Panchayat has come up with the case that it is the liability of the State Government to make payment of pension etc. to the petitioner and as such the State Government and the Director of Pension and Accounts were ordered to be impleaded as parties but both of them, despite of service of notice, have not chosen to appear before this Court. A person who has retired from services is litigating for pension and the District Panchayat as well as the State Government and its functionaries are sitting as silent spectators in such a serious matter.

#. So far as the grievance of the petitioner regarding giving him benefit of selection scale after nine years' service is concerned, it is suffice to say that this matter has to be decided by the District Panchayat and thereafter in case ultimately if he is found suitable for selection scale of nine years' service benefit, then his pay has to be accordingly revised and then consequential benefits have to be given to him by District Panchayat

for the period during which he served the District Panchayat and thereafter in the Corporation. The non cooperative attitude of respondents, i.e. State of Gujarat and the Director of Pension will not be taken to the extent of deferring hearing of this matter. The respondents aforesaid may adopt indifferent attitude but this Court will not allow the petitioner to go without pension and without adjudication regarding his right of selection scale of nine years' benefit.

#. Interest of justice will be met in case this petition is disposed of with directions to the District Panchayat, Ahmedabad, to consider the case of petitioner for giving him selection scale for nine years' benefit and in case he is found eligible for selection scale, then his pay may be fixed accordingly and all consequential benefits should be given to him. Thereafter the Corporation may give the benefit of higher pay scale for the period during which he served the Corporation. It is further ordered that the State of Gujarat shall decide the question of pension of the petitioner and in case he is found entitled for pension then all the arrears of pension should be paid to him together with interest thereon at the rate of 12% p.a. from the due date. All this exercise has to be undertaken and completed within a period of nine months from the date of receipt of this order and in case the claims of the petitioner or any of the claim of the petitioner aforesaid are not accepted, then a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. In case of difficulty, liberty is granted to the petitioner for revival of this Special Civil Application. The Special Civil Application and Rule stand disposed of accordingly with no order as to costs.

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(sunil)